

ENTERED

May 23, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LADDY CURTIS VALENTINE, *et al.*

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Plaintiffs,

§

VS.

CIVIL ACTION NO. 4:20-CV-1115

BRYAN COLLIER, *et al.*

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Defendants.

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ORDER

On Friday, May 22, 2020, this Court was notified by the parties that 141 individuals at the Pack Unit have now tested positive for COVID-19. Defendants have received results for around 600 tests; over 700 tests remain pending. At a telephonic status conference held later that same day, Defendants' counsel informed the Court that an additional Pack Unit inmate who had tested positive for COVID-19 had passed away late Thursday night, raising the number of inmates who have died presumptively from COVID-19 to five.

In light of these new numbers, Plaintiffs have requested that this Court order Defendants to provide Plaintiffs and this Court with a description of their plan to isolate and treat the individuals at the Pack Unit who have now tested positive, and to protect those who have pending tests or have tested negative from contracting COVID-19. At the telephonic conference, Defendants' counsel recited the measures that TDCJ is currently taking, including medically isolating those with positive test results in specific dorms, providing face masks and face towels to all inmates, which can be exchanged once a day, and producing and showing inmates a video educating them on COVID-19 and how to prevent transmission. However, Defendants refused to provide any written plans.

The Court is concerned by the large number of positive tests, as well as the high proportion of returned test results that have been positive. Meanwhile, the number of people at the Pack Unit who have died also continues steadily to increase. The Court understands that the current pandemic is a chaotic and ever-changing emergency; Defendants may not have coordinated a full plan and committed it to writing yet. However, Defendants' descriptions at the telephonic conference of their current efforts to protect Pack Unit inmates did not clarify to the Court how Defendants plan to contain the now-present outbreak. Thus, the Court finds that it would be helpful to the Court if Defendants submitted, in writing, a list of changes in policies and practices at the Pack Unit since the discovery of the enormous escalation in the spread of the virus.

Because the large number of positive results potentially changes both the circumstances surrounding this litigation and Defendants' previous plans to protect the Pack Unit inmates, the Court hereby **ORDERS** Defendants to file an update with the Court, describing how they have changed or plan on changing their COVID-19 response in Pack Unit based on the large number of new positive tests. For example, Defendants may wish to explain if there are plans to change: numbers of physicians or nurses available on-site; availability of beds in the infirmary; spacing at communal gathering spaces such as the dining room, as well as within the dorms; changes to the frequency of testing or retesting of staff and inmates; attempts to trace recent contacts of inmates and staff who test positive; plans for compassionate release or other forms of release; and communications, if any with federal and state health authorities for advice in controlling the outbreak. Defendants are ordered to file their response by 5:00PM on Wednesday, May 27, 2020.

IT IS SO ORDERED.

SIGNED at Houston, Texas on this the 23rd day of May, 2020.



KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE